



"To thine own self be true, and it must follow,"

as the night the day, thou canst not then be false to any man."

BY ROBERT YOUNG & CO.

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## VARIETY.

### The Homestead Law as Applicable to Prior Debts and Judgment, not Unconstitutional.

Judge Orr, in the appeal taken before him in the case of the creditors of T. E. Ware, has decided that the homestead clause of the Constitution of this State and the Act of the Legislature carrying it out, are not in conflict with the Constitution of the United States. The Judge has given an able opinion on the subject, which we lay before our readers. The case, by consent, was heard at chambers at Anderson. The Judge has decided in the same case that the \$1,000 is inclusive of the value of the dwelling house and outbuildings, and the appraisement having excluded the estimate of the dwelling in this case and assigned \$1,000 in land, a re-appraisement was ordered. The following is the opinion in full:

IN THE COURT OF COMMON PLEAS—GREENVILLE COUNTY.

*A. D. Iloke and T. Q. Donaldson, Administrators of David Iloke vs. T. E. Ware—1st F. F. No. 82,555; interest computed annually from 10th June, 1859. 2d F. F. No. 81,600; interest computed annually from 24th September, 1859.*

The second execution above was levied upon certain lots and real estate, the property of the defendant, by the Sheriff of Greenville county, including a tract of lot of land in the town of Greenville, containing thirty acres, more or less, adjoining W. A. Townes and others." Upon this tract of land the dwelling and out-houses of the defendant were situated.

He claimed that his homestead should be set off to him and personal property of the value of five hundred dollars, in conformity to the provisions of an Act of the General Assembly, entitled "An Act to determine and perpetuate the Homestead," passed 9th day of September, 1868. Three appraisers were appointed—one by the plaintiffs, one by the defendant, and the third by the Sheriff, Victoria. The appraisers set off by metes and bounds a homestead of the estate of the debtor, with a description and plat of the same, also personal property of the value of five hundred dollars, and made separate returns of the same, certifying the execution of their duties conformably to law, to the Sheriff, for record in Court. The plaintiffs in execution have filed various grounds of objection to these returns of the appraisers, and ask of this Court a re-assignment and re-appraisement of the real and personal property of the debtor.

The objection of the plaintiffs, when analyzed, may be reduced to three: First, that the Homestead Law is unconstitutional as to liens existing at the date of its passage. Second, that in the valuation and assignment of the personal property, injustice is done to plaintiffs, because the estimated value of the personal property is greatly below its market value. Third, that the real estate assigned and set off greatly exceeds in value the sum of one thousand dollars, and that in making such estimate, the appraisers did not take into the estimate the value of the dwelling house and the outbuildings connected therewith and incident thereto.

The first objection is overruled. The State of South Carolina had no constitutional existence from the close of the war in April, 1865, until July, 1868 when representation under, and in conformity to the Reconstruction Acts of Congress, was admitted. It is practically a matter of little consequence, whether the State was legally in or out of the Union by the Act of Secession. The State certainly had no constitutional rights recognized until July, 1868, when she was re-admitted in compliance of the Reconstruction Act from 1865 to 1868 the State was not in the Senate or House. If a right of representation could not be admitted, and yet the Courts of the State decided that the Reconstruction Congress were constitutional, the dates above, South Carolina, the Constitutional State, the superior to the Military—the rebellion having been conceded fact, that in the State after the Reconstruction Acts of Congress were subordinate to the Constitution. The District under the States, and the property was expropriated for months.

As citizens by the laws or Constitution of South Carolina as they existed prior to, or during the war, but were made citizens by Act of Congress and enforced by military orders in the election of delegates to the Constitutional Convention. They assembled in Convention and adopted a Constitution, which according to the provisions of the Reconstruction Acts of Congress, was a mere nullity, unless Congress accepted the same after its ratification by the people of the State, including the new citizens. The people of the State ratified the Constitution by a majority very decisive, and Congress accepted it as presented, and thereupon admitted the State to representation in both Houses of Congress. If the Homestead provision had been objectionable to Congress applying to existing liens at the date of the adoption of the Constitution, it would doubtless have been excepted to in the Act admitting the State to representation, as was done by Congress with reference to certain features in the Constitution of Georgia.

The view now presented, that the Homestead Act, as to liens existing at the date of the adoption of the Constitution, violates that clause of the Constitution of the United States which prohibits any State from passing "any law impairing the obligation of contracts," would seem to be fully met and answered by the foregoing statement of the history of the enactment.

But, the objection may be answered very satisfactorily by this view of the question: Suppose the Constitutional Convention in Charleston, in January, 1868, had refused to recognize any lien whatever, (whether mortgage or judgment,) given or created, or any property by or under the provisional rebel or ante-war governments that had existed in South Carolina, and directed all officers created by their Constitution to refuse to enforce such liens, could its power have been questioned, and if so, how and before what tribunal could the liens have been enforced? Now, if they could have ignored all liens by declining to provide for their enforcement, what prevented the Convention from recognizing the liens with such conditions as their judgment esteemed wise and prudent? to wit: If a mortgage or judgment obtained under a former government was recognized by a voting population totally different from the population that was represented in the former government, that the lien should be enforced subject to the claim of the defendant in execution or mortgage to a homestead of the value of one thousand dollars. These views might be elaborated and sustained by the decisions in New York, Michigan, North Carolina, Georgia and other States, but it is not considered necessary to pursue the matter further in this case. The Homestead Act of this State carrying into effect the provision of the Constitution of this State, Article II, Section 32, providing a homestead for the head of each family in this State, and the Constitutional provision itself, is not a violation of the provision of the Constitution of the United States, which prohibits any State from passing any law impairing the obligation of contracts, and that the same is constitutional.

2. The objection to the valuation of the personal property by the appraisers is overruled. No evidence has been presented that the personal property of the debtor, Ware, has been estimated below its value, or that any error or fraud has been committed by the appraisers. As to the personal property claimed by a third party, it is sufficient to say that it has not been assigned to the debtor; and if the plaintiffs deny the right of property and the bona fides of the claimant. This Court, therefore, declines to order a re-valuation and re-assignment of the personal estate made by the appraisers to the debtor, amounting to five hundred dollars, and set forth in their return.

3d. The objection taken to the valuation of the homestead of the debtor is sustained. The affidavits submitted by the plaintiffs and defendants are conflicting as to the market value of the homestead, out-buildings and lands appurtenant. One of the affidavits fixing the value at \$750, and another at \$5,000. Other affidavits estimate various intermediate sums. The weight of testimony shows that the dwelling, out-houses and lands, are worth more than one thousand dollars.

The 32 Section of the II Article of the Constitution of this State, describes with remarkable precision what is intended to be embraced as the homestead for each head of a family. It says: "Such homestead, consisting of dwelling house, out-buildings and lands appurtenant, not to exceed the value of one thousand dollars," &c., "shall be exempt from attachment, levy or sale," &c. The 1st Section of the Act, passed 9th September, 1868, entitled "an Act to determine and perpetuate the Homestead," is not less explicit. Where the real estate is levied on, being the homestead, such as such person

may select, not to exceed the value of one thousand dollars, to be set off," &c.; and in the same section, in giving directions to the appraisers, they shall "set off by metes and bounds a homestead of the estate of the debtor, &c., not to exceed the value of one thousand dollars," &c.

It is insisted in this case, that, in making the appraisement, no estimate should be made of the value of the dwelling house and out-buildings, and that the homestead means the lands appurtenant to the buildings alone. If this interpretation should be adopted, land without a dwelling could be assigned. And yet, it is not susceptible of a doubt that the Constitution and law was intended to secure to the family a home and shelter against all contingencies.

It is said again, that if the dwelling and out-buildings are not excluded from the estimate that an unfortunate debtor whose dwelling and out-buildings exceed one thousand dollars in value, would be excluded from all benefits from the Act. It is conceded that the legislation on this point is defective, and that some provision should be made where the debtor's dwelling is worth more than one thousand dollars, to retain for him in trust that sum when sold, to purchase a homestead; but this argument cannot be allowed to overthrow and defeat the plain provisions of the Constitution and Act already quoted.

It may be that appraisers would be authorized on examining a dwelling or out-buildings, and concluding the same was worth more than one thousand dollars, that they were authorized to appraise only and assign only a part of the dwelling and out-buildings, or even certain rooms, as a homestead.

In this case, one of the appraisers, in his affidavit, states that, in making his estimate of the homestead of the debtor, he did not include the dwelling and out-buildings, and that the thousand dollars, worth of real estate assigned to the debtor "consisted of lands appurtenant to the homestead."

This statement of the appraisers, as to the basis of the estimate in making the appraisement, and the affidavits submitted as to the value of the real estate assigned, being in excess of the amount allowed by law, requires me to order, and it is hereby ordered, that a re-appraisement and re-assignment of the homestead of the debtor, T. Edwin Ware, be made by E. S. Irvine, S. Swaudale and Hamlin Beattie, Esqs., and that they make return of their doings and doings in the premises, within forty days, to the Sheriff of Greenville County. JAMES L. ORR. Anderson, S. C., June 3d, 1869.

### Greely on the Future of the Southern Radicals.

Horace Greely has written to the editor of the Wheeling Intelligencer a letter, in which he gives the Southern Radicals generally a bit of advice, full of the strong common sense characteristic of the man. The letter is as follows:

NEW YORK, Nov. 13, 1868. My Dear Sir: I have yours of the 19th. Its leading positions have long been understood and appreciated in this quarter. Now hear me. Every year one thousand of your rebels die, and one thousand (or more) of their sons become of age. You can't disfranchise them. You now have five thousand majority. Six years at furthest will convert this into a rebel majority of one thousand. Then the rebels will be enfranchised in spite of you, and the blacks will be left under foot—and you under estimate these at two thousand.

Go your own way, and see if the rebels don't have you under foot in less than six years. I speak from a wide experience when I tell you that your house is built on the sand. It cannot stand. Every year will see the passions of the war cool and the demand for amnesty strengthened. Now you can amnesty the rebels. Soon the question will be, shall they amnesty you? Look at Kentucky and Maryland, and read your certain fate in theirs. Yours truly, HORACE GREELY.

HON. A. H. STEPHENS.—In an able letter, published in the "National Intelligencer," Mr. Alexander H. Stephens, of Georgia, says: "We are drifting to consolidation and empire, and will land there at no distant period as certainly as the sun will set this day, unless the people of the several States awake to a proper appreciation of the danger, and save themselves from the impending catastrophe by arresting the present tendency of public affairs. This they can properly do only at the ballot box. All friends of constitutional liberty in every section and State must unite in this grand effort." At what time was Adam married? Upon his wedding Eve.

### The Cow Pea as a Fertilizer for Wheat.

We have long been satisfied, from actual experiment, that the common cow pea of the Southern States, when properly managed, afford the best and, at the same time, the cheapest medium for the restoration of our exhausted cotton fields. Its effects have been as lasting and as marked upon the fertility of our soils as that of clover upon the worn and exhausted lands of Virginia and Maryland.

The main reason why the cow pea has not been heretofore extensively used as a fertilizer was owing to the fact that previous to emancipation our planters would not give up a sufficient portion of their lands to await the rather slow effects of this most valuable fertilizer. Now, however, when every planter has a large proportion of his poor lands lying idle, there is no excuse why the pea should not be set in every field not absolutely necessary for corn or cotton.

Now is the best time to plant the pea, and we desire to give our agricultural friends the result of a careful experiment made by a planter in Gwinnett county to encourage them to make similar efforts. Our Gwinnett planter had a piece of old exhausted land, twenty acres of which had been lying in broom sage for a number of years. This he broke deep with a turn plow in the Summer, and in the succeeding Fall put down in wheat. The crop, carefully measured, was a little less than four bushels to the acre.

As soon as the wheat was cut he sowed peas at the rate of two bushels to the acre. Early in October the peas were turned under with a deep furrow, and a few weeks later wheat was sown and carefully harrowed in upon the pea sod. The yield from the crop was nine bushels to the acre, a little more than double the first year's crop.

The field was again sown in peas as soon as the wheat was harvested and turned under as before in the Fall, and wheat sown upon the soil. The yield this year was seventeen and a half bushels.

The fourth year, with the same treatment, he made twenty-seven bushels, and this (the fifth year) the crop bids fair to make forty bushels. Nothing has been applied to the land as a fertilizer except the pea, and we find that in five years, with the cow pea alone, the production has been increased ten-fold. This actual experiment speaks more for the pea than any argument which we could make.

We trust some of our planting friends will be induced to try the pea on the next crop of wheat and let us know the result of their experiment.

### Girls Should Learn to Keep House.

No young lady can be too well instructed in anything which will affect the comfort of a family. Whatever position in society she occupies, she needs a practical knowledge of household duties. She may be placed in such circumstances that it will not be necessary for her to perform much domestic labor; but on this account she needs no less knowledge than if she was obliged to preside personally over the cooking stove and pantry. Indeed, I have thought it was more difficult to direct others, and requires more experience, than to do the same work with our own hands.

Mothers are frequently so nice and particular that they do not like to give up any part of the care to their children. This is a great mistake in their management; for they are often hardened with labor and need relief. Children should be early taught to make themselves useful; to assist their parents every way in their power, and to consider it a privilege to do so. Young people cannot realize the importance of a thorough knowledge of housewifery; but those who have suffered the inconvenience and mortification of ignorance can well appreciate it. Children should be early indulged in their disposition to bake and experiment in various ways. It is often but a troublesome help that they afford; still it is a great advantage to them. I know a little girl who at nine years old made a loaf of bread every week during the winter. Her mother taught her how much yeast, salt and flour to use, and she became quite an expert baker. Whenever she is disposed to try her skill in making simple cakes or pies she is permitted to do so. She is thus, while amusing herself, learning an important lesson. Her mother calls her, her little house-keeper and often permits her to get what is necessary for the table. She hangs the keys by her side, and very musical is the jingling to her ears. I think before she is out of her teens, upon which she has not yet entered, that she will have some idea how to cook.

Some mothers give their daughters the care of housekeeping, each a week by turns. It seems to me a good arrangement and a most useful part of their education. Domestic labor is by no means incompatible with the highest degree of refinement and mental culture. Many of the most elegant, accomplished women I have known have looked well to their household duties, and have honored themselves and their husbands by so doing.

There is a certain like kind of affection very common among pretty women; and this is the affection of not knowing that they are pretty, and not recognizing the effect of their beauty on men. Take a woman with bewildering eyes, say, of a maddening size and shape, and fringed with long lashes that distract you to look at; the creature knows that her eyes are bewildering, as well as she knows that fire burns and that ice melts; she knows the effect of that trick she has with them—the sudden uplifting of the heavy lid, and the swift, full gaze that she gives right into a man's eyes. She has practiced it often in the glass, and knows to a mathematical nicety the exact height to which a lid must be raised, and the exact fixity of the gaze. She knows the whole meaning of the look, and stirring of men's blood that it creates; but if you speak to her of the effect of her trick, she puts on an air of the utmost innocence, and protests her entire ignorance as to anything her eyes may say or mean; and if you press her hard she will look at you in the same way for her own benefit and deny at the very moment of offence. Various other tricks has she with those bewildering eyes of hers—each more perilous than the other to men's peace; and all unsparingly employed, no matter what the result. For this is the woman who flirts to her extreme limits, then suddenly draws up and says she meant nothing. Step by step she has led you on, with looks and smiles, and pretty phrases susceptible of two meanings, the one for the ear by the mere word, the other for the heart by the accomplishments of looks and manner which are intangible: step by step she has drawn you deeper and deeper into the maze where she has gone before as your deary; when she has you safe she raises her eyes for the last time, complains that you have mistaken her cruelly, and that she has meant nothing more than any one else might mean; and what can she do to repair her mistake? Love you? marry you? No; she is engaged to your rival, who counts his thousands; and what a pity that you had not seen this all along, and that you should have so misunderstood her? Besides, what is there about her that you or any one should love? Of all the many affections of women, this affection of their own heartlessness when beautiful, and of their innocence of design when they practice their arts for the discomfort of men, is the most dangerous and the most disastrous.

But what can one say to them? The very fact that they are dangerous disarms a man's anger and blinds his perception until too late. That men love though they suffer is woman's triumph, guilt, and condemnation; and so long as the trick succeeds it will be practiced. Another affection of the same family is the extreme friendliness and familiarity which some women adopt in their manners toward men. Young girls affect an almost maternal tone to boys of their own age, one year or so older; and they, too, when their elders remonstrate, declare they mean nothing, and how hard it is they may not be natural. This form of affection, once begun, continues throughout life, being too convenient to be lightly discarded; and youthful matrons not long out of their teens assume a tone and way that would about best middle age counselling giddy youth, and that might by chance be dangerous even then if the "Indian Summer" was specially bright and warm.

### The Art of Affection.

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PASTOR OF JOB.—Everybody is in the habit of bragging on Job; and Job did have considerable pashunce, but did he ever keep a districk skule for 8 dollars a month and board around or run a kountree noospaper? Did he ever reap lodged oats down hill on a hot day, and have all his gallus buttons bust off at once? Did he ever have the jumping toothache and be made tend the babe while his wife was over to Parkiness to a teassaul? Did he ever get up in the mornin' awful dri, and tuff it 3 miles before breakfast to get a drink, and find that the man kept a temperance house? Did he ever undertake to milk a kinking helfer, with a bushy tail, in fly time, and n a lot? Did he ever sot outo a litter of kittens in the old rooking-chair, with his summer pantaloons on? If he could da all these things, and praise the Lord at the same time, all I have to say is, "Bully for Job."

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### Sollum Thoughts.

BY JOSH BILLINGS.

The fear of God iz the philosophy of religion; the love ov God iz the charity ov religion.

Ilope iz a hen that lays more eggs than she kan hatch out.

Better leave your child virtow than money; but this iz a sekret known only tew a few.

I honestly beleave it iz better tew know nothing than tew know what ain't so.

About the hardest work a phellow kan do iz tew spark two galls at once, and preserve a good average.

Prudery iz one ov virtow's bastards.

A nick-name will outlive 'enny man ov thing; iz like the crook in a dog's tail—you may cut it oph and throw it behind the barn, but the crook iz thare yet, and the stump iz the epitaph.

If you analyze what most men call plezuro, you will find it composed ov one part humbug and two parts pain.

When you hain't got nothing to do, do it at once; thiz iz the way to be bizzy.

We have been told that the best way tew overkom misfortunes iz tew fight with them. I have tried both ways, and recommmend a successful dodge.

The art ov becoming ov importance in the eyes of others iz not to over-rate ourself, but tew cause them tew do it.

The true way to understand the judgments of Heaven is to submit to them.

Method iz everything, espeshly tew ordinary men; the few who kan lift a tun at pleasure hay a divine right to take holt ov it tew a disadvantage.

The mind ov man iz like a piece ov land, that, tew be useful, must be manured with learning, ploughed with energy, sown with virtow, and harvested with economy.

Whare religion iz a trade morality iz a merchandize.

Conversashun should be enlivened with wit, not composed ov it.

The less a man knows the more he will guess at; and guessing iz nothing more than suspicion.

Going tew law iz like skinning a new milch cow for the hide, and giving the meat to the lawyers.

Death, tew most ov us, iz a kind of "fare-well benefit"—"positively our last appearance."

Phools are quite often like hornets—very bizzy, but about what the Lord only knows.

Living on hope iz like living on wind; a good way tew git phull, but a poor way tew phatt.

Jealously don't pay—the best it can do iz tew discover what we don't want to find, nor don't expect to.

Secrets are a mortgage on friendships. I don't think a bile that has come to a head iz as risky as a hidden one, that may come to a dozen heads.

A vivid imaginashun iz like sun glasses—make things at a distance look twice as big as they am, and eluss to twice as small as they am.

Ilope iz a draft on futurity, sometime honored, but generally extended.

If the world dispizes a hypokrit, what must they think ov him in Heaven!

Flattery iz like Kolone water—tew be smelt ov, not swallowed.

After all, there don't seem tew be but thiz difference between the wize men and the phools—the wize men are all fuss and sum feathers, while the phools are all fuss and no feathers.

Without friends and without enemys iz the last reliable akount we havo, ov a stray dog.

Men generally, when they whip a mule, swaro; the mule remembers the swaring, but forgits the licking.

Sum folks wonder whare awl the the lies cum from, but I don't; one good liar will pizen a whole country.

Hunting after famo iz like hunting after fions, hard tew ketch, and sure tew make you unozzy if you do or don't ketch them.

Menny people spend their time trying tew find the hole whare sin got into thiz world.—If two men brake through the ice into a mill-pond, they had better hunt for some good hole tew git out, rather than git into a long argument about the hole they cum tew fall in.

Imaginashun, tew much indulged in, soon is tortured into reality; thiz iz one way the good hoss thiefs are made—a man leans over a fence all day, and imagines the hoes in the lot belongs tew him, and sure enuff, the first dark night, the hoes does.

If you must chaw terbroker, young man, for Heaven's sake, chaw old plugg; it iz the nastiest.

A WOMAN is like ivy—the more you see ruined the closer she clings to you. A old bashel adds: "Ivy iz like woman—the more it clings to you the more you are ruined." Poor rule that won't work both ways.